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09/369,960 08/06/99 CAMPBELL

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EXAMINER

CORRIELUS, J

ART UNIT

PAPER NUMBER

2172

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Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

# Office Action Summary

Application No.  
09/369,960

Applicant(s)  
David Campbell

Examiner  
Jean M. Corrielus

Group Art Unit  
2172



☒ Responsive to communication(s) filed on Jul 31, 2000

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claim

☒ Claim(s) 1-47 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1-47 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☒ None of the CERTIFIED copies of the priority documents have been received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

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## **DETAILED ACTION**

1. This office action is in response to a preliminary amendment filed on May 12, 2000, which claims 1-47 are presented for examination.
2. The filing receipt correction filed on 11/18/99 (paper 3) has been revised. The information referred to therein has been considered as to the merits.

### ***Information Disclosure Statement***

3. The information disclosure statement filed on 11/18/99 (paper no.2) complies with the provisions of M.E.P.. § 609. It has been placed in the application file. The information referred to therein has been considered as to the merits.

### ***Specification***

4. Applicant is suggested to amend the specification in page 1, before the background of the invention is amended to recite --This a continuation of application Serial. No. 08/452,596, filed May 25, 1995, which is U.S. Patent No. 5,694, 596 and continuation of application Serial. No. 08/969,134, filed November 12, 1997, which is U.S. Patent No.5,937,405--.

### ***Drawings***

5. The drawings filed on August 06, 1999 are acceptable. (See PTO 948).

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***Claim Rejections - 35 U.S.C. § 112***

6. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

7. Claims 12-14 and 16-46 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention, at the time the application was filed, had possession of the claimed invention.

Claims 12-14, 17-18 recite *"first peer computer and second peer computer; outdated information and common communications link"*;

Claims 15, 23-46 recites *"common communications link, published information, publishing computer, subscribing computer; subscriber module; and publisher module; nth publishing computer"*;

Claim 16 recites *"common communications link; first user module; first host module; second host module; first module block; and second host module block"*. There is no mentioned in the specification where the above limitations have been described to enable one of ordinary skill in the art to make use without undue experimentation. It is suggested that the above limitation be well defined in the specification and the claims so that one skilled in art could make and use the invention.

No new matter should be added to the specification.

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***Claim Rejections - 35 U.S.C. § 112***

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

9. Claims 12-14 and 16-46 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 12-14, 17-18 recite *“first peer computer and second peer computer; outdated information and common communications link”*; Claims 15, 23-46 recites *“common communications link, published information, publishing computer, subscribing computer; subscriber module; and publisher module; nth publishing computer”*; Claim 16 recites *“common communications link; first user module; first host module; second host module; first module block; and second host module block”*.

10. Claims 12 and 14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 12-14, 17-18 recite *“first peer computer and second peer computer; outdated information and common communications link”*; Claims 15, 23-46 recites *“common communications link, published information, publishing computer, subscribing computer; subscriber module; and publisher module; nth publishing computer”*; Claim 16 recites *“common communications link; first user module; first host module; second host module; first module block; and second host module block”*. There is no support in the specification where above

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limitations have been disclosed. There is insufficient antecedent basis for this limitation in the specification. In light of the above, the applicants are suggested to amend the specification to resolve the above antecedent basis.

### *Claim Objections*

11. Claims 12-14 and 16 are objected to because of the following informalities: Claim 12, step(b) recites “downloading via the network the at least one module block of **updated information from the first peer computer** to the second peer computer”. However, the preamble of the claim set forth download from the second peer computer the updated information to first peer computer in order to update the outdated information stored in the first computer. For examination purpose, the examiner has considered the limitations “downloading via the network the at least one module block of updated information from the first peer computer to the second peer computer” to be “downloading via the network the at least one module block of updated information from the second peer computer to the first peer computer”. In light of the above, the applicant is suggested to amend the claim to resolve the objection problem in the claim.

Claims 13-14 are objected for fully incorporating the errors of the respective base claims by dependency.

In claim 16, it is suggested that the “,” after information, in step (c) be replaced by --;--.

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Claim 1 of the cited patent and claim 4 of the present application recites the following:

***Patent claim 1***

1. A method for updating modules of information via a network comprising a plurality of terminals, the method comprising:  
(a) identifying a first module containing information to be updated, wherein the first module is stored in memory of a first terminal, and wherein the first module comprises a plurality of first module blocks;  
(b) identifying a second module containing more recent information than the first module, wherein the second module is stored in memory of a second terminal, and wherein the second module comprises a plurality of second module blocks;  
(c) identifying which second module blocks contain more recent information than the first module blocks;  
(d) downloading via the network the identified second module blocks from memory of the second terminal to the first terminal; and  
(e) updating the first module stored in memory of the first terminal with the more recent information contained in the identified second module blocks downloaded from memory of the second terminal.

***Application claim 4***

4. A method for updating modules of information via a network comprising a plurality of computers, the method comprising:  
(a) identifying a first module containing information to be updated, wherein the first module is stored in memory of a first computer, and wherein the first module comprises a plurality of first module blocks;  
(b) identifying a second module containing more recent information than the first module, wherein the second module is stored in memory of a second computer, and wherein the second module comprises a plurality of second module blocks;  
(c) identifying which second module blocks contain more recent information than the first module blocks;  
(d) downloading via the common communications channel the identified second module blocks from memory of the second computer to the first computer; and  
(e) updating the first module stored in memory of the first computer with the more recent information contained in the identified second module blocks downloaded from memory of the second computer.

It would have been obvious to one of ordinary skill in the art of data processing at the time the invention was made to modify claim 1 of the cited patent by replacing a terminal with a computer and a network with a common communications channel. The cited substitute elements would not interfere with the functionality of the steps previously claimed and would perform the same function of updating modules of information. In re Karlson, 136 USPQ 184 (CCPA 1963).

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***Double Patenting***

12. The nonstatutory double patenting rejection, whether of the obviousness-type or non-obviousness-type, is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent. See *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985) and *In re Goodman*, 29 USPQ2d 2010 (Fed. Cir. 1993).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) and may be used to overcome an actual or provisional rejection based on a non-statutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

13. Claims 4-11 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-2, 4-6, 9, 11-12 of U.S. Patent No.5,937,405. Although the conflicting claims are not identical, they are not patentably distinct from each other because of the following reasons:



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Claims 2, 4 and 5 of the cited patent and claims 5, 6 and 7 of the present application recite the following:

**Patent Claim 2**

2. The method of claim 1, further comprising repeating (b) through (e) of claim I for each of a plurality of modules identified as containing information to be updated.

**Patent Claim 4**

4. The method of claim 1, wherein identifying the second module containing more recent information than the first module comprises comparing the first module to the second module to determine if the second module contains more recent information than the first module.

**Patent claim 5**

5. The method of claim 4, wherein identifying which second module blocks contain mom recent information than the first module blocks comprises comparing each second module block, to each first module block to determine if the second module block has more recent information than the first module block.

**Application claim 5**

5. The method of claim 4, further comprising repeating (b) through (e) of claim I for each of a plurality of modules identified as containing information to be updated.

**Application claim 6**

6. The method of claim 4, wherein identifying the second module containing more recent information than the first module comprises comparing the first module to the second module to determine if the second module contains more recent information than the first module.

**Application claim 7**

7. The method of claim 6, wherein identifying which second module blocks contain mom recent information than the first module blocks comprises comparing each second module block, to each first module block to determine if the second module block has more recent information than the first module block.

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Claims 5, 6 and 7 of the Patent application are essentially the same as claims 2, 4 and 5 of the US patent cited above.

Claim 6 of the cited patent and claim 8 of the present application recites the following:

**Patent Claim 6**

6. The method of claim 1, wherein updating the first module stored in memory of the first terminal comprises updating each of the first module blocks with the more recent information contained in each of the identified second module blocks downloaded from memory of the second terminal.

**Application claim 8**

8. The method of claim 4, wherein updating the first module stored in memory of the first computer comprises updating each of the first module blocks with the more recent information contained in each of the identified second module blocks downloaded from memory of the second computer.

It would have been obvious to one of ordinary skill in the art of data processing at the time the invention was made to modify claim 6 of the cited patent by replacing a terminal with a computer. The cited substitute elements would not interfere with the functionality of the steps previously claimed and would perform the same function of updating modules of information. In re Karlson, 136 USPQ 184 (CCPA 1963).

Claim 9 of the cited patent and claim 9 of the present application recite the following:

**Patent claim 9**

9. The method of claim 1, further comprising:  
(a) identifying an nth module containing more recent information than The first module, wherein the nth module is stored in memory of an nth terminal, and wherein the nth module comprises a plurality of nth module blocks;

**Application claim 9**

9. The method of claim 4, further comprising:  
(a) identifying an nth module containing more recent information than The first module, wherein the nth module is stored in memory of an nth computer, and wherein the nth module comprises a plurality of nth module blocks;

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(b) identifying which nth module blocks contain more recent information than the first module blocks;  
(c) downloading via the network the identified nth module blocks from memory of the nth terminal to the first terminal; and  
(d) updating the first module stored in memory of the first terminal with the more recent information contained in the identified nth module blocks downloaded from memory of the nth terminal.

(b) identifying which nth module blocks contain more recent information than the first module blocks;  
(c) downloading via the network the identified nth module blocks from memory of the nth computer to the first computer; and  
(d) updating the first module stored in memory of the first computer with the more recent information contained in the identified nth module blocks downloaded from memory of the nth computer.

It would have been obvious to one of ordinary skill in the art of data processing at the time the invention was made to modify claim 9 of the cited patent by replacing an nth terminal with a an nth computer. The cited substitute elements would not interfere with the functionality of the steps previously claimed and would perform the same function of updating modules of information. In re Karlson, 136 USPQ 184 (CCPA 1963).

Claim 11 of the cited patent and claim 10 of the present application recite the following:

**Patent claim 11**

11. The method of claim 10, wherein at least one of the first module, the second module and the nth module comprises a module of information nested within another module of information.

**Application Claim 10**

10. The method of claim 9, wherein at least one of the first module, the second module and the nth module comprises a module of information nested within another module of information.

Claim 10 of the US application is essentially the same as claim 11 of the US patent.

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Claim 12 of the cited patent and claim 11 of the present application recite the following:

**Patent claim 12**

12. The method of claim 1, further comprising:  
(a) identifying an nth module containing new information, wherein the nth module is stored in memory of an nth terminal, and wherein the nth module comprises a plurality of nth module blocks;  
(b) identifying which nth module blocks contain new information;  
(c) downloading via the network the identified nth module blocks from memory of the nth terminal to the first terminal; and  
(d) updating the first module stored in memory of the first terminal with the new information contained in the identified nth module blocks downloaded from memory of the nth terminal.

**Application claim 11**

11. The method of claim 4, further comprising:  
(a) identifying an nth module containing new information, wherein the nth module is stored in memory of an nth computer, and wherein the nth module comprises a plurality of nth module blocks;  
(b) identifying which nth module blocks contain new information;  
(c) downloading via the network the identified nth module blocks from memory of the nth computer to the first computer; and  
(d) updating the first module stored in memory of the first computer with the new information contained in the identified nth module blocks downloaded from memory of the nth computer.

It would have been obvious to one of ordinary skill in the art of data processing at the time the invention was made to modify claim 12 of the cited patent by replacing an nth terminal with a an nth computer. The cited substitute elements would not interfere with the functionality of the steps previously claimed and would perform the same function of updating modules of information. In re Karlson, 136 USPQ 184 (CCPA 1963).

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*Claim Rejections - 35 U.S.C. § 102*

14. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

15. Claims 1-3, 12-15, 17-21, 23-32, 34, and 42-47 are rejected under 35 U.S.C. 102(e) as being anticipated by Nakagawa et al US Patent No. 5,835,911.

As to claim 12:

Nakagawa discloses ~~substantially~~ the invention as claimed, including a method and a system for providing a software distribution or maintenance over a network. The method implemented with Nakagawa's system is simply expressed as a method of communications between processes over a general-purpose network, which may be either in peer to peer network or in group to group network performed in a ration of 1 to 1 and a ratio of group to group (col.88, lines 33-38). In particularly, Nakagawa teaches the claimed "comparing a module outdated information stored in memory of a first peer computer to a module of more recent information stored in memory of the second peer computer, wherein the module of outdated information includes a plurality of module blocks at least one of which contains outdated information, and wherein the module of updated information includes a plurality of module bocks at least one of which contain updated information and corresponds to the at least one module block of outdated information" as a means

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for the server program in the vendor computer 22 (second peer computer) to compare information inquiry from the client program in the user computers 21-1 and 21-2 (first peer computer) with the corresponding software library (col.29, lines 19-21, 25-36). Nakagawa further teaches the claimed “downloading via the network the at least one module block of updated information from the second peer computer to the first peer computer” as a means for automatically transmitting via the network 23 the updated instruction from the server program in the vendor computer 22 (second peer computer) to the client program in the user computers 21-1 and 21-2 (first peer computer) (col.29, line 67). Last, Nakagawa teaches the claimed “replacing the at least one module block containing outdated information with the at least one module block containing updated information which was downloaded via the common communications link” as a means for updating user software s1 and s2 together with updated software modules (col.29, lines 23-24).

As to claim 13:

Nakagawa teaches the claimed “wherein comparing the module of outdated information stored in memory of the first peer computer to the module of the more recent information stored in memory of the second peer computer comprises comparing each module block of outdated information to a corresponding module block of updated information to identify the at least one module block containing updated information” as a means for the server program in the vendor computer 22 (second peer computer) to compare information inquiry from the client program in

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the user computers 21-1 and 21-2 (first peer computer) with the corresponding software library (col.29, lines 19-21, 25-36).

As to claim 14:

Nakagawa teaches the claimed “ wherein comparing each module block of outdated information to a corresponding module block of updated information identifies a plurality of module blocks in the updated module containing updated information, wherein the plurality of module blocks containing updated information are downloaded via the network from the second peer computer to the first peer computer, and wherein the module blocks containing outdated information are replaced with the plurality of module blocks containing updated information” as a means for the server program in the vendor computer 22 (second peer computer) to compare information inquiry from the client program in the user computers 21-1 and 21-2 (first peer computer) with the corresponding software library (col.29, lines 19-21, 25-36) and automatically transmitting via the network 23 the updated instruction from the server program in the vendor computer 22 (second peer computer) to the client program in the user computers 21-1 and 21-2 (first peer computer) (col.29, line 67).

As to claims 1-3:

Claim 1-3 are for computer readable medium containing computer executable component performed by the method of claims 12-14 and are similarly rejected.

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As to claim 15:

Nakagawa discloses a method and a system for providing a software distribution and maintenance over a network. The method implemented with Nakagawa's system is simply expressed as a method of communications between processes over a general-purpose network, which may be either in peer to peer network or in group to group (client server network) performed in a ration of 1 to 1 and a ratio of group to group (col.88, lines 33-38). By receiving a request from the server program in the vendor computer for updating the software modules to the client program in the user computer through the use of the network 23 (col.8, lines 31-38), Nakagawa inherently teaches the use of connecting a publishing computer to a subscribing computer. In particularly, Nakagawa teaches the claimed "subscribing to publish information stored in memory of the publishing computer " as a means for transmitting an inquiry over the network to the server program in the vendor computer (publisher) requesting information on the current version of the software (col.29, lines 50-67). Second, Nakagawa teaches the claimed " comparing the information stored in memory of the subscribing computer to the published information stored in memory of the publishing computer" as a means for the server program in the vendor computer 22 (publisher computer) to compare information inquiry from the client program in the user computers 21-1 and 21-2 (subscriber computer) with the corresponding software library (col.29, lines 19-21, 25-36). Third, Nakagawa teaches the claimed " responsive to the published information stored in memory of the publishing computer having been from the information stored in memory of the subscribing computer, identifying which published information stored in the



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memory of the publishing computer has been changed” as a means for verifying which module information have been updated (col.30, lines 3-5). Fourth, Nakagawa teaches the claimed “downloading from the publishing computer to the subscribing computer via the network only that published information which has changed from the information stored in the memory of the subscribing computer” as a means for automatically transmitting via the network 23 the updated instruction from the server program in the vendor computer 22 (publishing computer) to the client program in the user computers 21-1 and 21-2 (subscribing computer) (col.29, line 67). Last, Nakagawa teaches the claimed “updating the information stored in memory of the subscribing computer only with that published information which has changed and has been downloaded from the publishing computer” as a means for updating user (subscribing computer) software s1 and s2 together with updated software modules returned by the server program in the vendor computer (Publishing computer)(col.29, lines 23-24).

As to claim 17, most of the limitations of this claim have been addressed in the rejection of claim 12 above. Applicants’ attention is directed to the above rejection of claim 12. In addition, Nakagawa also teaches the claimed limitations “for each module of outdated information stored in the first peer computer”. Applicants’ attention is directed to (col.29, lines 19-21, 25-36).

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As to claim 18, most of the limitations of this claim have been addressed in the rejection of claim 12 above. Applicants' attention is directed to the above rejection of claim 12. In addition, Nakagawa also teaches the claimed limitations "the at least one module block of outdated information contains a nested outdated module"(col.30, lines 3-5).

As to claim 19, most of the limitations of this claim have been addressed in the rejection of claim 12 above. Applicants' attention is directed to the above rejection of claim 12. In addition, Nakagawa also teaches the claimed limitations "wherein the at least one module block of updated information contains a nested updated module"(col.30, lines 3-5).

As to claim 20, most of the limitations of this claim have been addressed in the rejection of claim 12 above. Applicants' attention is directed to the above rejection of claim 12. In addition, Nakagawa also teaches the claimed limitations "wherein the module of updated information contains more recent information"(col.29, lines 23-67).

As to claim 21, most of the limitations of this claim have been addressed in the rejection of claim 12 above. Applicants' attention is directed to the above rejection of claim 12. In addition, Nakagawa also teaches the claimed limitations "wherein the module of updated information contains new information"(col.29, lines 23-67).

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As to claim 23, most of the limitations of this claim have been addressed in the rejection of claim 15 above. Applicants' attention is directed to the above rejection of claim 15. In addition, Nakagawa also teaches the claimed limitations "wherein the published information which has changed is more recent information"(col.29, lines 23-67).

As to claim 24, most of the limitations of this claim have been addressed in the rejection of claim 15 above. Applicants' attention is directed to the above rejection of claim 15. In addition, Nakagawa also teaches the claimed limitations "wherein the published information which has changed is new information"(col.29, lines 23-67).

As to claim 25, most of the limitations of this claim have been addressed in the rejection of claim 15 above. Applicants' attention is directed to the above rejection of claim 15. In addition, Nakagawa also teaches the claimed limitations "wherein the information stored in the memory of a subscribing computer is stored in subscriber module and wherein the published information is stored in publisher modules"(col.29, lines 19-21, 25-36, 50-67).

As to claim 26, most of the limitations of this claim have been addressed in the rejection of claim 25 above. Applicants' attention is directed to the above rejection of claim 25. In addition, Nakagawa also teaches the claimed limitations "wherein at least one subscriber module contains a nested subscriber module"(col.29, lines 19-21, 25-36).

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As to claim 27, most of the limitations of this claim have been addressed in the rejection of claim 25 above. Applicants' attention is directed to the above rejection of claim 25. In addition, Nakagawa also teaches the claimed limitations "wherein the at least one publisher module contains a nested subscriber module"(col.29, lines 19-21, 25-36).

As to claim 28, most of the limitations of this claim have been addressed in the rejection of claim 25 above. Applicants' attention is directed to the above rejection of claim 25. In addition, Nakagawa also teaches the claimed limitations "wherein comparing the information comprises comparing subscriber modules to publisher modules to identify changed publisher modules" (col.29, lines 19-21, 25-36).

As to claim 29, most of the limitations of this claim have been addressed in the rejection of claim 25 above. Applicants' attention is directed to the above rejection of claim 25. In addition, Nakagawa also teaches the claimed limitations "wherein downloading the information comprises downloading only the changed publisher modules, and wherein updating the subscribing computer comprises updating only with the changed publisher modules"(col.29, lines 23-24).

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As to claim 30, most of the limitations of this claim have been addressed in the rejection of claim 25 above. Applicants' attention is directed to the above rejection of claim 25. In addition, Nakagawa also teaches the claimed limitations "wherein the subscriber modules comprise subscriber module blocks, and wherein the publisher modules comprise publisher module blocks"(col.29, lines 19-21, 25-36).

As to claim 31, most of the limitations of this claim have been addressed in the rejection of claim 30 above. Applicants' attention is directed to the above rejection of claim 30. In addition, Nakagawa also teaches the claimed limitations "wherein comparing the information comprises comparing subscriber module blocks to publisher module blocks to identify changed publisher module blocks"(col.29, lines 19-21, 25-36).

As to claim 32, most of the limitations of this claim have been addressed in the rejection of claim 30 above. Applicants' attention is directed to the above rejection of claim 30. In addition, Nakagawa also teaches the claimed limitations "wherein downloading the information comprises downloading only the changed publisher module blocks to identify changed publisher module blocks"(col.29, lines 23-24).

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As to claim 34, most of the limitations of this claim have been addressed in the rejection of claim 16 above. Applicants' attention is directed to the above rejection of claim 16. In addition, Nakagawa also teaches the claimed limitations "for each of a plurality of user modules" (col.29, lines 19-21, 25-36).

As to claim 42, most of the limitations of this claim have been addressed in the rejection of claim 1 above. Applicants' attention is directed to the above rejection of claim 1. In addition, Nakagawa also teaches the claimed limitations "wherein the comparison component identifies which module blocks in the updated module of information contain new information"(col.29, lines 23-24).

As to claim 43, most of the limitations of this claim have been addressed in the rejection of claim 1 above. Applicants' attention is directed to the above rejection of claim 1. In addition, Nakagawa also teaches the claimed limitations "wherein the download component downloads module blocks in the updated module of information containing new information"(col.29, lines 23-24).

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As to claim 44, most of the limitations of this claim have been addressed in the rejection of claim 1 above. Applicants' attention is directed to the above rejection of claim 1. In addition, Nakagawa also teaches the claimed limitations "wherein the update component updates the outdated module with the module blocks of the updated module containing new information that were downloaded by the downloaded component"(col.29, lines 23-24).

As to claim 45, most of the limitations of this claim have been addressed in the rejection of claim 1 above. Applicants' attention is directed to the above rejection of claim 1. In addition, Nakagawa also teaches the claimed limitations "wherein the outdated module of information a submodule"(col.29, lines 19-21, 25-36).

As to claim 46, most of the limitations of this claim have been addressed in the rejection of claim 1 above. Applicants' attention is directed to the above rejection of claim 1. In addition, Nakagawa also teaches the claimed limitations "wherein the updated module of information contains a submodule"(col.30, lines 3-5).

As to claim 47, most of the limitations of this claim have been addressed in the rejection of claim 4 above. Applicants' attention is directed to the above rejection of claim 4. In addition, Nakagawa also teaches the claimed limitations "determining a first date for the first module"(col.29, lines 19-21, 25-36; 50-67); "determining a second origin date for the second

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module” (col.29, lines 19-21, 25-36; 50-67); and “comparing the first origin date for the first module to the second origin date for the second module”(col.29, lines 23-24).

***Claim Rejections - 35 U.S.C. § 103***

16. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).



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17. Claims 16, 35-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakagawa et al US Patent No. 5,835,911.

As to claim 16, Nakagawa discloses substantially the invention as claimed except for the use of a first host module and second host module. However, Nakagawa discloses a server program in the vendor computer 22 to compare information inquiry from the client program in the user computers 21-1 and 21-2 with the corresponding software library (col.29, lines 19-21, 25-36). It would have been obvious to one of ordinary skill in the art of data processing, at the time the present invention was made to modify the Nakagawa's system, wherein the server program vendor provided thereof (see of Nakagawa's col.29, lines 25-36) would incorporate the use of first host module and second host module. The motivation being to rapidly and properly acquire and use software created and updated by the software vendor.

As to claims 35-38, Nakagawa discloses substantially the invention as claimed except for the use of nth host module and nth host module block. It would have been obvious to one of ordinary skill in the art of data processing, at the time the present invention was made to modify the Nakagawa's system, wherein the server program vendor provided thereof (see of Nakagawa's col.29, lines 25-36) would incorporate the use of nth host module and nth host module blocks. The motivation being to rapidly and properly acquire and use software created and updated by the software vendor.

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As to claims 39-41, Nakagawa discloses substantially the invention as claimed except for the use of a first alternate host module and a second alternate host module. It would have been obvious to one of ordinary skill in the art of data processing, at the time the present invention was made to modify the Nakagawa's system, wherein the server program vendor provided thereof (see of Nakagawa's col.29, lines 25-36) would incorporate the use of a first alternate host module and a second alternate host module. The motivation being to rapidly and properly acquire and use software created and updated by the software vendor.

18. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nakagawa et al US Patent No. 5,835,911.

As to claim 22, Nakagawa discloses substantially the invention as claimed except for the use of a plurality of modules. It would have been obvious to one of ordinary skill in the art of data processing, at the time the present invention was made to modify the Nakagawa's system, wherein the server program vendor provided thereof (see of Nakagawa's col.29, lines 25-36) would incorporate the use of a plurality of modules and nth host module blocks. The motivation being to rapidly and properly acquire and use software created and updated by the software vendor.

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19. Claim 33 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nakagawa et al US Patent No. 5,835,911.

As to claim 33, Nakagawa discloses substantially the invention as claimed except for the use of a plurality of publishing computer. It would have been obvious to one of ordinary skill in the art of data processing, at the time the present invention was made to modify the Nakagawa's system, wherein the server program vendor provided thereof (see of Nakagawa's col.29, lines 25-36) would incorporate the use of a plurality of publishing computer. The motivation being to rapidly and properly acquire and use software created and updated by the software vendor

### *Conclusion*

20. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Please see attached PTO-892.

1. US. Patent no. 4,558,413, issued to Schmidt et al. on 12/10/85. The subject matter disclosed therein is pertinent to that of claims 1-3, 12-15 (e.g. updating outdated software version from the user computer to the more recent software version).

2. US. Patent no. 5,388,258, issued to Larsson et al. on 02/07/95. The subject matter disclosed therein is pertinent to that of claims 1-3, 12-15 (e.g. updating outdated software version from the user computer to the more recent software version).

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3. US. Patent no.5,572,727, issued to Larsson et al. on 11/05/1996. The subject matter disclosed therein is pertinent to that of claims 1-3, 12-15 (e.g. updating outdated software version from the user computer to the more recent software version).


Any inquiry concerning this communication or early communication from the Examiner should be directed to **Jean M. Corrielus** whose telephone number is (703) 306-3035. The Examiner can normally be reached on Tuesday-Friday from 7:00am to 5:30pm.

If attempts to reach the Examiner by telephone are unsuccessful, the examiner's supervisor, Kim Vu, can be reached on Monday-Friday from 9:00 a.m.-6:00 p.m. at (703)305-4393.

**Any response to this action should be mailed to:** Commissioner of Patents and Trademarks Washington, D.C. 20231 **or faxed to:** (703) 308-9051, (for formal communications intended for entry)

**Or:** (703)305-9731 (for informal or draft communications, please label "PROPOSED" or "DRAFT") Hand-delivered responses should be brought to Crystal Park II, 2021 Crystal Drive, Arlington. VA., Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application should be directed to the group receptionist whose telephone number is (703) 305-9600.



Jean M. Corrielus

Patent Examiner

January 20, 2001